

REMARKS

Status of the Claims.

Claims 21, 22, 24-26, 28, and 45 are pending with entry of this amendment, claims 1-20, 23, 27, 29-44, and 46-50 being cancelled and no claims being added. Claims 21, 24-26, and 45 are amended herein. These amendments introduce no new matter. Support is replete throughout the specification (*e.g.*, in the claims as originally filed).

Claim Objections.

Claims 24 and 25 were objected to under 37 CFR §1.75(c) as allegedly being of improper dependent form for failing further limit the subject matter of a previous claim. Claims 24 and 25 depend from claim 21 which is amended herein to recite: "[a]n isolated nucleic acid encoding a human C6 antibody that specifically binds to c-erbB-2, wherein said C6 antibody comprises a heavy chain variable domain comprising the 3 CDRs in SEQ ID NO:32, and a light chain variable domain (VL) comprising the 3 CDRs in SEQ ID NO:36."

Claims 24 and 25 further limit the subject matter of claim 21 as amended and are therefore of proper dependent form. Accordingly the claims objections should be withdrawn.

35 U.S.C. §112, Second Paragraph.

Claims 21, 22, 24-26, 28, and 45 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite because claim 21 recites the limitation "wherein the variable heavy chain and/or the variable light chain" and according to the Examiner there is insufficient antecedent basis for such a limitation.

Claim 21 as amended herein recites ". . . **a heavy chain** variable domain comprising the 3 CDRs in SEQ ID NO:32, and **a light chain** variable domain (VL) comprising the 3 CDRs in SEQ ID NO:36" thereby providing appropriate antecedent basis and obviating this rejection.

35 U.S.C. §112, First Paragraph.

Claims 21, 22, 24, 25, 28, 41, and 45 were rejected under 35 U.S.C. §112, first paragraph, as allegedly not enabled. In making this rejection, the Examiner alleged that the terms variable heavy (VH) region and variable light (VL region" read on any portion of a variable chain. Applicants traverse by argument and amendment.

In a PowerPoint presentation by Larry R. Helms at the customer partnership meeting of the biotechnology, chemical, and pharmaceuticals technology groups on June 13, 2007, it was stated that a claim of the form:

Claim: An isolated antibody that binds to human antigen X, said antibody **comprises a heavy chain variable domain comprising the 3 CDRs in SEQ ID NO:1 and a light chain variable domain comprising the 3 CDRs in SEQ ID NO:2.** [emphasis added] (see PowerPoint presentation Example 1)

meets the requirements of 35 U.S.C. §112.

Claim 21, as amended herein recites:

Claim 21 (Currently amended): An isolated nucleic acid encoding a human C6 antibody that specifically binds to c-erbB-2, wherein said C6 antibody **comprises a heavy chain variable domain comprising the 3 CDRs in SEQ ID NO:32, and a light chain variable domain (VL) comprising the 3 CDRs in SEQ ID NO:36.** [emphasis added]

Accordingly, Applicants believe claim 21, as amended herein meets the requirements of 35 USC §112 and the rejection of claims 21, 22, 24-26, 28, and 45 on these grounds should be withdrawn.

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Should the Examiner seek to maintain the rejections, Applicants request a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 267-4161.

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Respectfully submitted,

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